

Serial No.: 09/854,344

Docket No.: 08039-00693



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of :  
WAGNER, Gregg et al. :  
Serial No. 09/854,344 : Group Art Unit: 2877  
Filed: May 11, 2001 : Examiner: Fannie Evans  
For: HANDHELD, PORTABLE COLOR MEASURING DEVICE  
WITH DISPLAY

The Commissioner for Patents  
Washington, D.C. 20231

**AFFIDAVIT OF GREGG WAGNER & GARY EMERSON  
UNDER 35 C.F.R. § 1.132**

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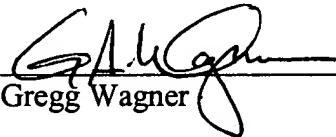
We, Gregg Wagner, a U. S. citizen having a residence address of 1368 Cedar Avenue, Boulder, CO, 80304, and Gary Emerson, a U.S. citizen having a residence address of 34226 Gap Road, Boulder, CO 80403, hereby declare as follows:

1. We believe that we are the original and joint inventors of at least one claim in the subject application.
2. We have reviewed the contents of U. S. Patent No. 6,157,454 to Wagner et al., which we understand has been cited against the claims pending in the subject application.
3. We believe that we are the original and joint inventors of the Wagner et al. patent.

4. Further, we believe that any invention disclosed but not claimed in the Wagner et al. patent was derived from us and is thus not an invention "by another" per 35 U.S.C. §102(e).

5. We hereby declare that all statements made herein of our own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: June 26, 2002

  
\_\_\_\_\_  
Gregg Wagner

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF Denver                    )

Subscribed and sworn to before me this 26<sup>th</sup> day of June, 2002 by Gregg Wagner.


Witness my hand and official seal.

(SEAL)


  
\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**My Commission Expires May 20, 2004**

Docket No.: 08039-00693

  
Gary Emerson

Subscribed and sworn to before me this 26th day of June, 2002 by Gary Emerson.

  
 Notary Public My Commission Expires May 20, 2004  
 My Commission Expires: \_\_\_\_\_

(SEAL)